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FM SECSTATE WASHDC
TO AMEMBASSY BEIJING IMMEDIATE
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AMEMBASSY DAR ES SALAAM
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AMEMBASSY DJIBOUTI
AMEMBASSY KINSHASA
AMEMBASSY ADDIS ABBA
AMEMBASSY LAGOS

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INFO UN SECURITY COUNCIL COLLECTIVE IMMEDIATE
AMEMBASSY THE HAGUE IMMEDIATE
USMISSION USUN NEW YORK IMMEDIATE

C O N F I D E N T I A L STATE 224856

E.O. 1235L: DECL: OADR
TAGS: RW, US, PHUM, PREL,
SUBJECT: ESTABLISHMENT OF UN WAR CRIMES TRIBUNAL FOR
RWANDA

REFS: (A) USUN 3281, (B) STATE 202027

1. CONFIDENTIAL -- ENTIRE TEXT.

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2. THIS IS AN ACTION MESSAGE.

3. SUMMARY: AT A MEETING OF THE P-5 MISSION LEGAL ADVISERS AT THE USUN ON AUGUST 9, ALL EXCEPT CHINA AGREED THAT AN INSTITUTION OF INTERNATIONAL CHARACTER SHOULD BE CREATED TO DEAL WITH GENOCIDE AND OTHER CRIMES COMMITTED IN RWANDA. CHINESE PERMREP ZHANG SAID HIS GOVERNMENT HAS NOT DECIDED HOW TO HANDLE THE INTERNATIONAL TRIBUNAL ISSUE, BUT THAT THEY WOULD LIKE TO EXHAUST OTHER REMEDIES BEFORE DECIDING ON A TRIBUNAL. ZHANG ALSO INDICATED THAT THE CHINESE WOULD SUPPORT THE OPTION OF PROSECUTION IN
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RWANDAN DOMESTIC COURTS BY LENDING INTERNATIONAL LEGAL

ASSISTANCE. FOR MORE INFORMATION ABOUT CHINESE VIEWS OF THE TRIBUNAL, PLEASE SEE REFTEL A.

4. ACTION AMEMBASSY BEIJING: DEPARTMENT REQUESTS THAT POST APPROACH APPROPRIATE OFFICIALS TO GAIN THEIR SUPPORT FOR THE CREATION OF AN INTERNATIONAL TRIBUNAL TO DEAL WITH GENOCIDE AND OTHER CRIMES COMMITTED IN RWANDA USING THE TALKING POINTS BELOW (POST MAY SHARE TALKING POINTS).

5. ACTION AMEMBASSY BUJUMBURA, KINSHASA, KAMPALA, NAIROBI, DAR ES SALAAM, DJIBOUTI, ADDIS ABABA AND LAGOS: DEPARTMENT REQUESTS THAT POST SEEK HOST GOVERNMENT SUPPORT AT THE APPROPRIATE LEVEL FOR THE CREATION OF AN INTERNATIONAL TRIBUNAL TO DEAL WITH GENOCIDE AND OTHER CRIMES IN RWANDA, AND SEEK THE COMMITMENT OF THE HOST COUNTRY TO DEMARCHE IN BEIJING TO SEEK CHINESE SUPPORT FOR THE CONCEPT OF AN INTERNATIONAL TRIBUNAL. POST MAY SHARE TALKING POINTS BELOW. (NOTE FOR DAR ES SALAAM, AND KINSHASA: HOST COUNTRY HAS INDICATED SUPPORT FOR THE TRIBUNAL IN THE PAST, SO POST SHOULD EMPHASIZE THE REQUEST THAT HOST COUNTRY DEMARCHE BEIJING TO SUPPORT THE TRIBUNAL.)

BEGIN TALKING POINTS:

-- WE ARE PLEASED THAT THE P-5 LEGAL ADVISERS HAVE BEGUN DISCUSSION OF THE ESTABLISHMENT OF AN INTERNATIONAL TRIBUNAL TO PROSECUTE THOSE WHO HAVE COMMITTED ATROCITIES
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IN RWANDA.

-- THE U.S. STRONGLY SUPPORTS THE ESTABLISHMENT OF AN INTERNATIONAL TRIBUNAL WHICH HAS BEEN RECOMMENDED BY THE UN HUMAN RIGHTS RAPPORTEUR AND WELCOMED BY THE RWANDAN GOVERNMENT IN A LETTER TO THE SECRETARY-GENERAL BOUTROS-GHALI. WE ALSO UNDERSTAND THE BRITISH AND FRENCH ARE SUPPORTIVE OF SUCH AN EFFORT.

-- WE BELIEVE THAT THE ACCOUNTABILITY ESTABLISHED BY A TRIBUNAL WILL BE A CRUCIAL FACTOR IN DETERRING FUTURE GENOCIDES. WE ALSO BELIEVE IT IS IMPORTANT THAT ATROCITIES IN RWANDA RECEIVE A RESPONSE COMMENSURATE WITH THAT GIVEN TO THE FORMER YUGOSLAVIA, ALTHOUGH IN A MORE TIMELY FASHION.

-- WE ALSO BELIEVE A TRIBUNAL WOULD ASSIST IN POLITICAL RECONCILIATION IN RWANDA IN THAT OFFENDERS WOULD BE DEALT WITH BY AN IMPARTIAL OUTSIDE BODY RATHER THAN BY ANY OF THE PARTIES TO THE RECENT CONFLICT.

-- IN THIS REGARD, WE BELIEVE IT IS IMPORTANT TO PROCEED WITHOUT UNNECESSARY DELAY TO PERFORM THE WORK NECESSARY TO ESTABLISH AN INTERNATIONAL TRIBUNAL WHILE THE COMMISSION OF EXPERTS PREPARES ITS FINAL REPORT.

-- IT IS CRITICAL FOR THE PURPOSE OF INTERNATIONAL LEGITIMACY AND JUDICIAL FAIRNESS TO BUILD A COHERENT AND UNIFORM BODY OF LAW IN THIS AREA AND AVOID SEPARATE, POTENTIALLY INCONSISTENT BODIES OF PRECEDENT.

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-- WE UNDERSTAND FROM P-5 DISCUSSIONS IN NEW YORK, THAT THE CHINESE WANT TO EXPLORE WITH RWANDA AND OTHER AFRICAN STATES THE ACCEPTABILITY OF CREATING AN INTERNATIONAL TRIBUNAL VERSUS THE UTILITY OF USING RWANDA'S DOMESTIC COURTS.

-- DEPARTMENT OF STATE OFFICIALS RECENTLY RETURNED FROM A TRIP TO BUJUMBURA, KAMPALA, KIGALI, AND GOMA. DURING THE TRIP AND LATER IN A LETTER TO THE SECRETARY-GENERAL (FULL TEXT BELOW AT PARA 5) THE RWANDAN GOVERNMENT OFFICIALS ENTHUSIASTICALLY ACCEPTED THE PROPOSAL THAT AN INTERNATIONAL TRIBUNAL JUDGE THOSE RESPONSIBLE FOR GENOCIDE AND DECLARED THEMSELVES PREPARED IN THE NEAR TERM TO DEFER TO PROSECUTIONS BY AN INTERNATIONAL BODY PROVIDED THE INTERNATIONAL COMMUNITY TAKES CLEAR AND DECISIVE STEPS

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IN THAT DIRECTION.

-- THE RWANDAN GOVERNMENT ALSO WELCOMED INTERNATIONAL SUPPORT IN ITS ENDEAVOR TO DEVELOP A FAIR AND INDEPENDENT JUDICIAL SYSTEM. IN THIS REGARD, THE RWANDAN GOVERNMENT INDICATED THAT IT INTENDS TO ACTIVELY CONDEMN VIGILANTE JUSTICE AND ARREST THOSE RESPONSIBLE FOR ANY SUMMARY EXECUTIONS. HOWEVER, TO LIMIT ADDITIONAL VIOLENCE, THIS INTERNATIONAL TRIBUNAL MUST COME INTO OPERATION AND BEGIN ITS PROCEEDINGS SOON.

-- THE TRIBUNAL CONCEPT IS SUPPORTED BY SOUTH AFRICAN PRESIDENT NELSON MANDELA, VICE-PRESIDENT OF THE OAU, AND THE GOVERNMENTS OF ZAIRE AND TANZANIA.

-- (FOR PARA 5 ADDRESSES)Y WE HOPE YOU CAN INSTRUCT YOUR
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MISSION IN BEIJING TO DEMARCHE THE CHINESE IN SUPPORT OF THE INTERNATIONAL TRIBUNAL.

-- OVER THE NEXT FEW WEEKS, THOUSANDS OF RWANDAN REFUGEES WILL CONSIDER WHETHER TO RETURN TO RWANDA. IF THEY DO NOT, THESE LARGE REFUGEE POPULATIONS WILL ONLY INCREASE THE INSTABILITY AND POTENTIAL FOR VIOLENCE ON THE RWANDAN

BORDER. AT THE SAME TIME, IN ORDER TO PREVENT FURTHER VIOLENCE AND INSTABILITY WITHIN RWANDA, THE GOVERNMENT MUST CLEARLY ESTABLISH THE RULE OF LAW AND CREATE AN ENVIRONMENT FOR ITS CITIZENS FREE OF VIOLENCE, INTIMIDATION OR REPRISAL.

-- BECAUSE OF THE MAGNITUDE OF THE ABUSES IN RWANDA, THE INTERNATIONAL TRIBUNAL WILL NOT BE ABLE TO PROSECUTE ALL THOSE WHO HAVE COMMITTED CRIMES. CLEARLY, ONCE A RWANDA TRIBUNAL IS APPROVED, THE GOVERNMENT OF RWANDA GORI AND THE INTERNATIONAL COMMUNITY WILL HAVE TO CONSIDER FURTHER HOW PROSECUTIONS WILL BE DIVIDED BETWEEN THE TRIBUNAL AND THE GOR.

-- THEREFORE, WE BELIEVE THAT THE SWIFT CREATION OF AN INTERNATIONAL TRIBUNAL FOR RWANDA IS CRUCIAL TO THE STABILITY OF THE REGION. AT THE SAME TIME, INTERNATIONAL ASSISTANCE SHOULD BE GIVEN TO HELP THE RWANDAN GOVERNMENT CREATE A SYSTEM OF JUSTICE THAT IS FAIR AND IMPARTIAL.

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5. TEXT OF LETTER SENT BY RWANDAN JUSTICE MINISTER TO
SECRETARY GENERAL BOUTROS BOUTROS GHALI.

8 AUGUST 1994

DEAR SECRETARY GENERAL:

WE ARE PLEASED THAT THE COMMISSION OF EXPERTS HAS BEEN
SELECTED AND ENCOURAGE AN EARLY VISIT BY THE COMMISSION TO
THE REGION TO BEGIN WORK. BECAUSE OF THE URGENCY OF
OBTAINING ACCOUNTABILITY AND REMOVING PERPETRATORS OF
GENOCIDE AND OTHER GRAVE VIOLATIONS OF INTERNATIONAL
HUMANITARIAN LAW FROM THE REGION, IT IS IMPERATIVE THAT
THE COMMISSION CONCLUDE ITS WORK EXPEDITIOUSLY, WELL
BEFORE THE FOUR MONTH DEADLINE.

WE STRONGLY SUPPORT THE ESTABLISHMENT OF AN INTERNATIONAL
TRIBUNAL ALONG THE LINES DEVELOPED FOR THE FORMER
YUGOSLAVIA. TRIAL OF PERPETRATORS BY AN EXTERNAL,
IMPARTIAL BODY IN THE NEAR TERM WOULD HELP PROMOTE PEACE
AND RECONCILIATION AMONG THE PARTIES AND REMOVE
DESTABILIZING ELEMENTS FROM RWANDA AND NEIGHBORING
STATES.

AT THE SAME TIME, IN LIGHT OF DOMESTIC CONSIDERATIONS OF
THE RWANDAN GOVERNMENT AND THE DUE PROCESS CONCERNS
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ASSOCIATED WITH DETAINING SUSPECTS FOR AN UNREASONABLE
TIME PERIOD BEFORE TRIAL, IT IS ESSENTIAL THAT THE
COMMISSION'S WORK BE COMPLETED PROMPTLY, AND THE

ESTABLISHMENT OF AN INTERNATIONAL TRIBUNAL OCCUR IN THE
NEAR TERM.

ALTHOUGH WE ARE PREPARED TO DEFER TO PROSECUTIONS BY AN
INTERNATIONAL BODY, WE MUST SEE CLEAR AND DECISIVE STEPS
TAKEN BY THE INTERNATIONAL COMMUNITY TOWARD THE PROMPT
FORMATION OF A TRIBUNAL.

TAKING ACCOUNT OF THE SPECIAL RAPPORTEUR'S REPORT, WE URGE
THE SECURITY COUNCIL TO ENSURE THAT THE COMMISSION OF
EXPERTS ISSUES A REPORT IN THE IMMEDIATE FUTURE, AND TO
TAKE CONCRETE STEPS TO LAY THE GROUNDWORK FOR PROMPT
ESTABLISHMENT OF A TRIBUNAL, SUCH AS DEVELOPING PLANS FOR
THE STRUCTURE, BUDGET AND STAFFING FOR THE TRIBUNAL,

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ADDITIONAL JUDGES, REGISTRY STAFF AND FACILITIES THAT MAY
BE NEEDED.

WE HAVE ARRESTED A NUMBER OF PERSONS AGAINST WHOM WE HAVE
CREDIBLE EVIDENCE THAT THEY COMMITTED GENOCIDE AND OTHER
GRAVE VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW. WE
ARE PREPARED TO HOLD THEM, CONSISTENT WITH INTERNATIONAL
STANDARDS FOR DETENTION, PENDING PROSECUTION BY AN
INTERNATIONAL TRIBUNAL. WE CALL UPON OTHER STATES TO MAKE
SIMILAR ARRESTS, CONSISTENT WITH THEIR DOMESTIC LAWS AND
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THE OBJECTIVES OF THE GENOCIDE CONVENTION, SO THAT THOSE
WHO COMMITTED GRAVE VIOLATIONS OF INTERNATIONAL
HUMANITARIAN LAW DO NOT ESCAPE THE REACHES OF THE JUDICIAL
SYSTEM OR INCITE FURTHER VIOLENCE.

WE RECOGNIZE THE IMPORTANCE OF A FAIR AND INDEPENDENT
JUDICIAL SYSTEM TO STABILITY AND DEMOCRATIC REFORM AND
INTEND TO DEVELOP SUCH A SYSTEM EXPEDITIOUSLY. WE WELCOME
INTERNATIONAL SUPPORT IN THIS ENDEAVOR.

IN SUM, WE URGE THE INTERNATIONAL COMMUNITY TO MOVE
QUICKLY TO ESTABLISH AN INTERNATIONAL TRIBUNAL. PEACE AND
STABILITY OF OUR REGION WILL BE GREATLY ENHANCED BY A
COHERENT, SWIFT AND EFFECTIVE INTERNATIONAL RESPONSE.

THANK YOU FOR YOUR CONSIDERATION.

SINCERELY,

MINISTER OF JUSTICE
END TEXT.

6. PLEASE SLUG RESPONSES FOR L - CRYSTAL NIX, L/UNA -
O/UNP - GREG

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STANTON.
CHRISTOPHER

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